

Docket No. CH919980004US1
(590.059)

REMARKS

Please note the fact that August 19, 2007, fell on a Sunday ensures that this paper is timely filed as of today, Monday, August 20, 2007 (the next succeeding day which is not a Saturday or Sunday).

In the Office Action dated April 19, 2007, pending Claims 1-20 were rejected and the rejection made final. Claims 1, 7, 10, 13 and 16 are independent claims; the remaining claims being dependent claims. In response Applicants have filed herewith an Amendment After Final and have amended claims 1, 4, 16, 17 and 18 to address various informalities, as discussed below. The Applicants intend no change in the scope of the claims by the changes made by these amendments, which have been made merely to expedite prosecution.

On August 20, 2007, Applicants' representative conducted an interview with the Examiner in which the pending claims and the prior art references were discussed. No agreement was reached, however, it was agreed that Applicants would submit an Amendment After Final for consideration. It was also agreed the Examiner would contact the undersigned by phone prior to the issuance of a further action should there been any issues in the application which may be dealt with by telephone.

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the foregoing amendments and the following remarks.

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Claim Objections

Claim 5 stands objected to as having an improper status indicator. The status indicator in the previous Amendment indicated "Currently Amended" in order to indicate that "[18]" had been removed from the claim. Now the status indicator is "Previously Presented" to indicate that no further changes have been made to the claim. Applicants respectfully request reconsideration and withdrawal of this objection.

Rejections under 35 U.S.C. §§ 101, 112

Claims 1-6 and 16-20 stand rejected under 35 U.S.C. §§ 101, 112 because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility, and because one skilled in the art clearly would not know how to use the claimed invention, respectively.

In an effort to facilitate expeditious prosecution, Applicants have, as suggested by the Examiner, amended claims 1 and 16 strike the word "improving", thereby removing the offending language. Applicants respectfully request reconsideration and withdrawal of these rejections.

Claim 18 stands rejected under 35 U.S.C. § 112, ¶ 2, as lacking sufficient antecedent basis for the claim limitation "the remote site". Claim 18 has been amended to change its dependency. Applicants respectfully request reconsideration and withdrawal of this rejection.

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Section 103 Rejections

Claims 1 and 16 stand rejected under Section 103(a) as being unpatentable over U.S. Patent No. 5,592,375 to Bardwell C. Salmon et. al. (hereinafter "Bardwell"). Claims 2-5, 7, 10 and 13 stand rejection under Section 103(a) as being unpatentable over Bardwell in view of EP A 0 854 462 to Hiroya et al. (hereinafter "Hiroya"). Claims 6, 8, 9, 11, 12, 14, 15 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bardwell, Hiroya, and further in view of O'Mahony, *Secure Electronic Transactions* (hereinafter "O'Mahony"). Reconsideration and withdrawal of the present rejections are hereby respectfully requested.

As the Examiner is aware, to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 there must be a suggestion or motivation to modify a reference or combine references; a reasonable expectation of success in making the modification or combination; and the prior art must teach or suggest all the claim limitations. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants respectfully submit that the Office has failed to establish such a *prima facie* case.

As best understood, Bardwell does not appear to be directed to providing secure payment methods of any kind whatsoever, including the differential protocol method contemplated by the instantly claimed invention, as no secure payment methods are either mentioned or suggested. Rather, Bardwell appears to be directed to a system for organizing and presenting multimedia information related to goods or services, entered by sellers into a database, the information being viewable by buyers. *Bardwell*, Abstract.

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While the database of Bardwell is concerned with the available bandwidth in the various network configurations, Col. 1, lines 50-55, it is not concerned with the processing power of the components of the network in terms of choosing a protocol to ensure secure communications and payments.

Rather, Bardwell is concerned with the information that will be reviewed by the buyer, and the information submitted by the seller, based on the speed (bandwidth) of the connectivity. *Bardwell*, Col. 14, lines 2-34. More specifically, Bardwell states the following regarding the "two modes" having differing interactivity based on available bandwidth:

The nature of the network will affect cost, degree of interactivity, and types of media available to the seller and buyer...In the simplest and lowest-cost cases, either a seller or a buyer can communicate with the product database by mailing a diskette...high bandwidth channels may connect Seller's Interface [] to database server [], or database server [] to Buyer's Interface [], to deliver full-motion video interactively...Mid-bandwidth channels...could be accommodated either by reducing the quality of the video or lengthening response time...low-bandwidth channels, such as low speed modem, could be accommodated by reducing quality of video...or reducing some of the content, for instance by providing text and voice but not video.

Bardwell, Col. 14, lines 8-34 (emphasis added). Clearly, Bardwell nowhere contemplates utilizing two different protocols (i.e. a communication protocol and a payment protocol as in the instant application, e.g. claim 1) based on the available network and the user's processing requirements. Rather, Bardwell merely contemplates delivering different data (e.g. only audio but not video) based on the bandwidth available (e.g. to a user having low bandwidth connection or no bandwidth at all, e.g. when using the mail).

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Additionally, Bardwell does not disclose use of a trusted third party, verified by way of a certification authority (i.e. nowhere does Bardwell teach or suggest the "database", or any other third party, has been or should be certified as a trusted third party by a certification authority). *Specification*, page 8, lines 14. Moreover, nowhere does Bardwell contemplate having a trusted third party connect with the merchant/seller to conduct a payment transaction, using a more secure payment protocol, such as SET, on behalf of the user (i.e. buyer). *Specification*, page 6, lines 24-30. In fact, Bardwell barely addresses potential payment schemes, leaving them unclear and ill-defined; and certainly Bardwell does not teach or suggest the use of a dual protocol method as in the instantly claimed invention. *Bardwell*, Col. 13, lines 60-67.

Even if Bardwell could be construed as analogous art, which Applicants maintain it cannot be, Bardwell stands in stark contrast to the present invention. As already pointed out in the previous amendment, among the advantages of the present invention is the ability to utilize different protocols, at least in part, on the basis of the computer resources available, thereby enabling users of, e.g., mobile phones, or hand-held computers (e.g. users not having access to resources capable of complex security protocols such as SET) to use such devices to more securely transact electronic commerce (i.e. utilizing the trusted status of the third party to enhance confidence in the communications connections prior to the trusted third party making more secure connections with merchants, e.g. SET protocol, on the user's behalf). *Specification*, pages 3-5. This is not the same as selecting the type of multimedia to be provided from a database based on the currently available bandwidth, as in Bardwell.

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To summarize, in accordance with at least one presently preferred embodiment of the invention, a commercial relationship is established by a user with a trusted third party, at least to the extent that that user is aware that he is making a payment which will be redirected by to a trusted third party, who is a trusted server which receives and processes requests for information about products or services on an insecure network such as the Internet. Security in payments is improved by splitting the payment into two parts: 1) that associated with the network link between the user and the trusted third party (e.g. utilizing a communication protocol) and 2) that associated with the network link between the trusted third party and the merchants (e.g. utilizing a payment protocol).

Specification, page 6. Security protocols are selected, at least in part, on the basis of the computer resources which may be expected to be available in each of the network links.

As shown above, Bardwell fails to meet the limitations of the independent claims of the instant invention, nor is there any suggestion in Bardwell of the present invention. Similarly, neither Hiroya, O'Mahony, nor any other art cited by the Examiner, overcome the deficiencies of Bardwell. Thus, the claimed invention is patentable over the applied references and the state of the art.

In view of the foregoing, it is respectfully submitted that independent Claims 1, 7, 10, 13 and 16 fully distinguish over the applied art and are thus allowable. By virtue of their dependence, it is thus also submitted that Claims 2-6, 8-9, 11-12, 14-15, and 17-20 are also allowable at this juncture.

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Other Matters

The Office is also requested to clarify the correspondence address for this application. Applicants have previously submitted a Change in Correspondence address to associate this application with Customer No. 35195. It does not appear, however, as if the correspondence address was changed. A further Change in Correspondence address is being submitted herewith. Any assistance the Office may be able to offer in changing the correspondence address would be greatly appreciated.

Applicants kindly direct the Examiner's attention to the outstanding Office Action wherein one of the references submitted in the IDS was not acknowledged. Applicants respectfully request clarification as to why this reference was not indicated as being considered.

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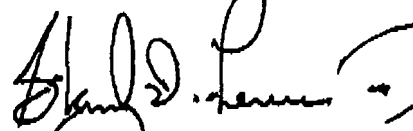
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Conclusion

In summary, it is respectfully submitted that the instant application, including Claims 1-20, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Stanley D. Ference III
Registration No. 33,879

Customer No. 35195
FERENCE & ASSOCIATES LLC
409 Broad Street
Pittsburgh, Pennsylvania 15143
(412) 781-8400
(412) 781-9292 - Facsimile

Attorneys for Applicants